

# Board of Adjustment



## *Minutes*

City Council Chambers, Lower Level  
May 11, 2010

### **Board Members Present:**

Garrett McCray, Chair  
Scott Thomas, Vice Chair  
Nicholas Labadie  
Greg Hitchens  
Judah Nativio  
Tyler Stradling

### **Staff Present:**

Gordon Sheffield  
Angelica Guevara  
Mia Lozano-Helland  
Lesley Davis  
Tim Lillo  
Tom Ellsworth  
John Wesley

### **Board Members Absent:**

Diane von Borstel - excused

### **Others Present:**

Michael Fries  
Bill Petrie  
Thelma & Bryan Vivian  
Hector Tapia  
John Balcer  
Dennis Chapin  
Jared Parker  
Miles Mendoza  
Kimberly Mendoza  
Chris Albright  
George Hall  
Will Allen  
Rodolfo H. Arroyo  
Lorraine Corsaco  
Dave Trisoliere  
Enedina Chapin  
Scott Romney  
Linda & William Edwards  
Gary Martinale

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:35 p.m. Before adjournment at 7:30 p.m., the following items were considered and recorded.

### **Study Session 4:30 p.m.**

- A.
  - 1. Mr. Sheffield advised the Board that Officers will need to be elected by the July 13<sup>th</sup> meeting.
  - 2. Mr. Sheffield asked the Board to review the By-Laws and provide comments if so desired.
  - 3. A Zoning Ordinance update was provided and Mr. Sheffield advised the Board of the public workshops that are being conducted to inform the public of the zoning code adoption. Dates and locations were provided.
- B. The request for reconsideration of BA10-10, 119 West 3<sup>rd</sup> Place was moved to; D. Other Business
- C. The items scheduled for the Board's Public Hearing were discussed.

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**Public Hearing 5:35 p.m.**

- A. Consider Minutes from the April 13, 2010 Meeting A motion was made to approve the minutes by Boardmember Stradling and seconded by Boardmember Nativio. Vote: Passed 6-0 (von Borstel absent)
- B. Consent Agenda A motion to approve the consent agenda as read was made by Boardmember Hitchens and seconded by Boardmember Stradling. Vote: Passed 6-0 (von Borstel absent)

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**Case No.:** BA10-013

**Location:** 256 East Broadway Road (PLN2010-00058)

**Subject:** Requesting a Special Use Permit to allow auto repair and vehicle sales in the TCB-2 zoning district.

**Decision:** Continuance to the June 8, 2010 meeting.

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens seconded by Boardmember Stradling to continue BA10-013 to the June 8, 2010 meeting.

**Vote:** Passed 6-0

## **Board of Adjustment Meeting May 11, 2010**

**Case No.:** BA10-020

**Location:** 845 East Grandview Street (PLN2010-00081)

**Subject:** Requesting a variance to allow a shade structure to encroach into a required setback in the R1-7 zoning district.

**Decision:** Continuance to the June 8, 2010 meeting.

**Summary:** John Balcer, the property owner, represented the case and summarized the request and the circumstances that led up to the variance request. He also stated that they are willing to make some modifications to the structure to gain approval. Chair McCray asked Mr. Balcer about the adjustment he was willing to make. Discussion ensued regarding this topic.

Rudolpho Arroyo, who resides at 836 E. Grandview spoke in favor of the structure and stated that it looked good.

Kim Mendoza, who resides at 852 E. Grandview spoke in favor of the structure and feels it increases the value of the property.

Lorraine Corsaco, daughter of the property owner immediately adjacent to the west of the subject property, spoke in opposition to the structure. She stated that the structure would impact her mother's property the most due to the close proximity to her mother's house and the absence of a building permit gives her concern for the construction integrity and compliance with building and electrical codes.

Mr. Balcer stated that there is in excess of 20' to the wall of the neighbor's home and that the electric is up to code. Mrs. Balcer provided additional comments related to the structure.

Boardmember Nativio had concerns with the structure being so close to the property line and asked the applicant if there might be a problem with noise from persons in the structure at night that might disturb the neighbor on that side.

Mrs. Balcer stated that in the 20 years that she has owned the home she has never received complaints about noise.

Boardmember Hitchens asked the location of the bedrooms of the adjacent neighbors and if there were any windows facing the structure. Mr. Balcer stated that there is a bedroom on the east side, but that the window faces south with a solid wall to the east.

Staff member Tom Ellsworth summarized and clarified the details of the request.

Boardmember Labadie asked if the Board could approve the additional height allowed in a side yard if it was not part of the request. Mr. Sheffield replied that they could not and the case would have to be continued so that a revised public notice and re-notification could be accomplished. Boardmember Labadie stated that he would support a continuance to allow the request to be clarified and to allow the neighbors to work on an agreement for revising

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the structure.

Boardmember Stradling asked if the request was denied how much time would the applicant have to move the structure. Mr. Ellsworth replied that the applicant would have 90 days to comply.

Chair McCray stated he supports a continuance because of the additional height and floor area details that need to be added to the request.

Boardmember Stradling stated that he has concerns with the modifications suggested. He did not want to give the applicant false hope that the modifications would allow him to gain an approval. He further asked about the applicant re-applying if the request were denied. Mr. Sheffield explained that the applicant could not re-apply with a very similar request. Any subsequent request would have to be significantly different.

Boardmember Hitchens voiced concerns that the structure would pass a building code inspection since a building permit was never issued. A discussion ensued regarding the applicant's ability to make the modifications necessary.

**Motion:** It was moved by Boardmember Labadie, seconded by Boardmember Thomas to continue BA10-020 to the June 8, 2010 meeting.

**Vote:** Passed 6-0

## **Board of Adjustment Meeting May 11, 2010**

**Case No.:** BA10-021

**Location:** 1336 East Harvest Street (PLN2010-00088)

**Subject:** Requesting a variance to allow an addition to encroach into a required setback in the R1-6 zoning district.

**Decision:** Continued to the June 8, 2010 meeting.

**Summary:** Dennis Chapin, the owner of the property represented the case and explained his request.

Boardmember Stradling asked the applicant about the 10' 'easement' he referred to in his explanation. Mr. Chapin stated that he measured from the wall to the street. Mr. Sheffield explained that this area between the applicant's wall and the street is actually the public right-of-way. He further commented that it is not a part of Mr. Chapin's property and he also explained that building setbacks are applicable to all residential properties.

Boardmember Labadie asked if there was an easement on the inside of the wall in the setback.

Boardmember Nativio asked if the structure was professionally built and if there was electricity in it. Mr. Chapin replied that he built the structure and that it has no electric.

Dave Trisolieri, 1332 E. Halifax, spoke in favor of the project. No objections, suggested that Mr. Chapin sign a document agreeing to relocate the structure at his expense if the City should require him to move it in the future.

George Hall, 1437 N. Delmar spoke in favor and had no objections to the structure.

Scott Romney, 1463 N. Delmar spoke in favor and said it enhances the neighborhood.

William M. Edwards, 1513 N. Delmar spoke in favor.

Linda R. Edwards, 1513 N. Delmar spoke in favor said the structure looks good.

Chris Albright, 1445 N. Delmar spoke in favor said owner has made improvement to the property and supports the variance. He agreed that the owner needs permits.

Staff member Lesley Davis summarized the request and explained that this was the result of a complaint through the Code Compliance office. She further explained that the applicant could have built a smaller structure and complied with the appropriate setbacks. Ms. Davis provided the options that were available to the applicant.

Boardmember Nativio asked about notification of surrounding property owners. He also had concerns about the safety of the structure since no construction inspections were made.

Boardmember Labadie asked about the location of a pergola that was also built without a permit. He also commented on the setbacks and the reasons for having them. He further

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stated that if this structure were not already built the Board would not consider an approval.

Boardmember Stradling had concerns with the extreme level of encroachment and the lack of justification for the variance. He also commented on the Zoning Ordinance and the requirements set forth within the ordinance that are public policy.

Chair McCray had concerns with the fact that the applicant built without acquiring a permit and could find no special reason to grant the variance.

Boardmember Hitchens stated that if the owner had obtained a permit he would have known that he could not build up to the 10' setback line and replied that he could not support the variance.

Boardmember Thomas stated that he could not support the request.

**1<sup>st</sup> Motion:** It was moved by Boardmember Thomas, seconded by Boardmember Stradling to deny BA10-014.

**Vote:** 4-2 Passed (Labadie and Nativio voting nay)

After the vote Boardmember Labadie asked if the applicant could come back with a significant change since the pergola was not a part of the initial request. Discussion ensued between the Boardmembers regarding the omission of the pergola in the request and consideration.

Mr. Sheffield stated that the Board could reconsider the case and reopen it for further discussion.

**2<sup>nd</sup> Motion** It was moved by Boardmember Hitchens to reconsider BA10-021, seconded by Boardmember Thomas.

**Vote:** 6-0

Further discussion ensued regarding clarification of the issues and the pergola. Ms. Davis explained the location of the shed and pergola and that the pergola is over the allowable square footage for the structure in its present location.

**3<sup>rd</sup> Motion** It was moved by Boardmember Labadie to continue BA10-021 to the June 8, 2010 meeting, seconded by Boardmember Stradling.

**Vote:** 6-0

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**Case No.:** BA10-022

**Location:** 445 North Stapley Drive (PLN2010-00092)

**Subject:** Requesting a modification of an existing Special Use Permit for a Comprehensive sign Plan for a health club in the C-2 zoning district.

**Decision:** Denied

**Summary:** Scott Hudson represented the case for LA Fitness. Mr. Hudson provided a summary and the changes requested to the previously approved modification.

Boardmember Labadie asked which direction from traffic the requested sign would face. Mr. Hudson provided that the signs would face west and south from the intersection of University Dr. and Stapley Dr. He also asked the height difference of the buildings on the site. A discussion ensued regarding photos of the site.

Boardmember Stradling asked why they did not include this request in the previous modification approved summer of 2009. Mr. Hudson stated that this request was made specifically by the LA Fitness organization this year(2010).

Staff member Lesley Davis explained that the building is over 57,000 s.f. and commented on the previous approval for additional signage and the circumstances that allowed the increased signage. Discussion ensued regarding approval of increased signage at various locations.

Boardmember Hitchens asked if the signs were on the building. Mr. Hudson replied that they were. He also asked about the distances provided from the street to the building and stated that he had doubts about the accuracy of the numbers stated.

Boardmember Labadie stated he could support with reduced letter height from 4 foot letters to 3 foot letters and asked staff what conditions staff would include. Lesley Davis replied that conditions would include compliance with the original comprehensive sign plan with modifications requested and approval of sign permits.

Discussion continued, and the Board heard a suggestion by Mr. Sheffield for the use of 30 inch letters.

**Motion:** It was moved by Boardmember Labadie, seconded by Boardmember Nativio to approve BA10-015 with the following conditions:

1. *Compliance with previously approved Comprehensive Sign Plan and Modification (BA99-48 and BA09-033).*
3. *Letters to be a maximum of 30 inches in height.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

**Vote:** 2-3-1 (McCray, Hitchens, Stradling voting nay; Thomas abstaining)  
The request was technically denied and no further motions were place or discussed.



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### **Findings:**

- 1.1** The applicant requested a modification to the Comprehensive Sign Plan to allow the aggregate sign area for an LA Fitness facility to exceed current Code maximums. Two attached signs with an aggregate sign area of 329 square feet were requested, current Code allows three signs with an aggregate sign area of 160 square feet.
- 1.2** The initial comprehensive sign plan for this center was approved for signage related to a major grocery tenant. The signage needs for grocery stores included signage not only for the identification of the name of the store but of the types of services provided within the store (i.e. Pharmacy, food, banks, etc...). The change in use to a health club required the signage to be modified to meet the needs of a completely different type of use. The health club was seeking signage for the main purpose of visibility for identification of the business name. The health club received approval to modify the initial Comprehensive Sign Plan in July of 2009 (BA09-033) to allow one attached sign on the west elevation at 231 s.f., which is 71 s.f. over what code would typically allow, but is 15 s.f. less than what was previously approved for the building.
- 1.3** A permit was issued for the installation of the attached 231 s.f. sign on the west elevation.
- 1.4** The distance between the property line and the LA Fitness facility is approximately 350-feet on Stapley Drive and 240' on University Drive. In addition, the size of the building is more than 57,000 square feet in area and ranges in height from 24 to 30 feet. Given the size of the building and its proximity to the street, the facility is quite visible from the intersection and will be allowed detached signs on both street frontages. The applicant is currently approved for 231 s.f. of sign area, which is still a 71 s.f. increase over code, and could be broken into 3 separate signs on the building. There were no special conditions related to the land or building, that were necessary to justify the request.

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**Case No.:** BA10-023 (PLN2010-00096)

**Location:** 6130 East Auto Park Drive

**Subject:** Requesting a modification of an existing Special Use Permit for a Comprehensive Sign Plan for automobile sales in the M-1-PAD zoning district.

**Decision:** Case was withdrawn

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to withdraw BA10-023.

**Vote:** Passed 6-0

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**Case No.:** BA10-024

**Location:** 1702 North Crismon Road (PLN2010-00094)

**Subject:** Requesting a Special Use Permit to allow a commercial communication tower to be placed in the R1-15–PAD zoning district.

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-024 with the following conditions:

- 1. Compliance with the site plans submitted except as modified by the following conditions below.*
- 2. The proposed commercial communication facility will consist of eight antennas (shall be painted to match the color of the Corten Steel wall) mounted on Corten Steel (rusted steel) wall and ground mounted equipment screened by Corten Steel wall and shade structure over the ground mounted equipment .*
- 3. The top of the Corten Steel wall shall be as high as the top of the highest equipment on the ground.*
- 4. The portion of the corten wall which does not have antennas on it shall be broken down to pieces per staff approval to mitigate potential visual impact of a solid continuous single piece of wall at the top of the hill. Submit revised drawings per staff approval prior to building permit request.*
- 5. The operator of this communication facility shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
- 6. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** Passed 6-0

**Findings:**

- 1.1** The expansion of the existing commercial communication facility is located on top of a hill south of the McKellips Road and west of Crismon within a lease area screened from public view by an 8 foot tall Corten Steel wall.
- 1.2** The property is zoned R1-15 PAD, and existing Commercial Communication Towers are allowed provided they do not exceed 30' in height. The approval of a Special Use Permit (SUP) was required because of the expansion of an existing facility.
- 1.3** Approval of the SUP required finding the Commercial Communication Tower compatible with and not detrimental to surrounding properties and is consistent with the General Plan and other recognized plans and City Council policies, including the Commercial Communication Tower Guidelines, adopted in 1997.

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- 1.4** Based on the submitted plans, identified as CROWN #871827, PHXAZW280AA and dated March 26, 2010, the expansion of the existing Crown Castle International Communication Compound includes ground mounted equipment located within a designated 30'x10' AT&T lease area and Corten steel wall along the north and northeast slopes of the hill to mount antennas and screen the facility. The elevation at the base of the equipment on the top of the hill is 2050', whereas the elevation at the bottom of the hill near Inglewood Circle is 1785'. The lease area is covered on top with sunscreens. Antennas are mounted on Corten wall and painted to match the color of Corten Steel wall on the site.
- 1.5** The antennas each measure 3' tall mounted on the Corten screen wall.
- 1.6** The applicant noted that this site is preferred by AT&T to expand their existing network and provide the surrounding area wireless service.
- 1.7** The location of the Commercial Communication facility expansion complies with the Commercial Communications Towers Guidelines in that it is approximately 1930-feet from the right-of-way. In addition, the Commercial Communication facility is a minimum of 446 feet from the nearest residential parcels.
- 1.8** The Commercial Communication Tower is an allowed use in R1-15 zoning district subject to granting of a Special Use Permit. Consistent with the Commercial Communication Tower Guidelines adopted by the City Council May 19, 1997, the location of the Commercial Communication Tower expansion requires Special Use Permit. Given the distance from residential uses, the context of the site, and the use of a screen wall, the Commercial Communication facility expansion is compatible with and not detrimental to surrounding properties.

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**Case No.:** BA10-025 (PLN2010-000104)

**Location:** 5255 South Power Road

**Subject:** Requesting a modification to an existing Special Use Permit for a Comprehensive Sign Plan for a restaurant in the C-2 zoning district.

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-025 with the following conditions:

1. *Compliance with the sign plan submitted, except as modified by the conditions listed below.*
2. *Compliance with all requirements of the Building Safety Division in the issuance of building permits.*

**Vote:** Passed 6-0

**Findings:**

- 1.1 The Zoning Code allows two detached signs with an aggregate total of 21 feet in height and 211 square feet in sign area.
- 1.2 The Comprehensive Sign Plan identifies only one detached sign along Power Road at 12' feet in height and 80 square feet in sign area.
- 1.3 The modification to the existing Comprehensive Sign Plan is to allow 3 attached signs for 97.5' of building frontage for the drive-thru restaurant shown on the site plan, which is greater than would be allowed by current Code. The additional attached signage is justified by the reduction in the number of detached signs when compared to what could be allowed by Code. The additional sign is allowed by code if the building frontage was extended by 2.5'. The applicant worked with the Design Review Board to produce a well designed building that is compatible with the center.
- 1.4 The Design Review Board previously reviewed and approved the building architecture for the overall development.

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**Case No.:** BA10-026 (PLN2010-00099)

**Location:** 160 North Spencer Street

**Subject:** Requesting a variance to allow an addition to encroach into a required setback in the R1-6 zoning district.

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-026 with the following conditions:

1. *Compliance with the landscape plan submitted.*
2. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** Passed 7-0

**Findings:**

- 1.1 This variance allows an addition to an existing home to encroach 4.5' in to the required 20' front yard setback in the R1-6 zoning district. The subdivision "Stewart East Mesa Addition" was developed in the late 1940's and early 1950's. The area was annexed into the City of Mesa in 1949.
- 1.2 The existing home was constructed with the front of the home facing 2<sup>nd</sup> Street. Because of the prevailing custom of the building on the lot the front yard becomes the longer of the two frontages (§11-1-6 Definition of Terms: Lot Line).
- 1.3 The existing home as constructed in 1950 encroaches 4.5' into the required 20' front yard setback. The applicant will maintain the traditional setback of the existing home at 15' 7". The existing home and the addition meet current setbacks for the side and rear yards.
- 1.4 Primary justifications for the variance relate to the fact that the existing home facing the longer of the two frontages for the lots creates a situation where the front and rear setbacks run along the longer edges of the property reducing the buildable area on the lot. Had the home been built facing the shorter frontage along Spencer the area of the addition would be within the required setbacks.
- 1.5 This variance does not grant a special privilege unavailable to other properties within the vicinity. Due to the age of the neighborhood there are several properties along 2<sup>nd</sup> and in the immediate vicinity that were developed with setbacks that do not meet current zoning standards. For example the home immediately to the west also faces 2<sup>nd</sup> Street with a similar setback and the home across Spencer has been developed to the property line along 2<sup>nd</sup> Street.
- 1.6 It is staff's finding that the granting of this variance allows the property to develop in a manner consistent with the surrounding neighborhood while allowing the property owner to make additions to the property that will improve the overall character of the neighborhood

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**Case No.:** BA10-027 (PLN2010-000107)

**Location:** 2920 East Baseline Road

**Subject:** Requesting a Special Use Permit to allow a commercial communication tower to exceed the maximum height allowed in the C-2 zoning district.

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-027 with the following conditions:

- 1. Compliance with the site plan submitted unless modified by the conditions below.*
- 2. The commercial communication tower shall utilize a Faux Date Palm design with a minimum of 55 palm fronds, bark cladding to resemble the bark of a natural palm tree, and all antennas, radio heads, and microwave dishes shall be painted to match the color of the palm fronds.*
- 3. The commercial communication tower shall have a maximum height of sixty-five feet (65') at the top of the pole and top of the antennas.*
- 4. The antennas shall not exceed 4'-4" in length, 1'-2" in width, and 4" in depth.*
- 5. The antenna standoff assembly shall not extend more than 8" from the pole.*
- 6. The operator of the monopalm shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
- 7. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** Passed 6-0

**Findings:**

- 1.1** The 65-foot high Commercial Communication Tower is located towards the eastern portion of the parcel along the east property line adjacent to the consolidated canal behind the ten feet high ministorage buildings along Baseline Road.
- 1.2** The subject property is zoned C-2, that allows Commercial Communication Towers provided they do not exceed 30' in height. The approval of a Special Use Permit (SUP) is required for Commercial Communication Towers that exceed the maximum permitted height of 30'; this project is for a 65' high Commercial Communication Tower.
- 1.3** Approval of a SUP finds that the Commercial Communication Tower is compatible with and not detrimental to surrounding properties and is consistent with the General Plan and other recognized plans and City Council policies, including the Commercial Communication Tower Guidelines, adopted in 1997.
- 1.4** Based on the submitted plans, identified as AZ-PHX0762D and dated April 1, 2010, the Commercial Communication Tower and associated ground mounted equipment are located within a



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designated lease area. The lease area and the base of the monopalm is surrounded by 10 feet high existing mini- storage building to the south, 11 feet high existing CMU wall to the east, 10 feet high existing mini storage building to the north. The array on the monopalm consists of three sectors, each with three antennas and three microwave dishes. The antennas each measure 4'2" L x 1'1" W x 4" D and each of the microwave dishes measure 2'2" in diameter.

- 1.5** The applicant noted this new facility is in a location where Verizon Wireless once had an existing site. Clearwire feels the monopalm is the inconspicuous way to provide wireless internet services to nearby residents and local businesses
- 1.6** The location of the Commercial Communication Tower complies with the Commercial Communications Towers Guidelines in that it is approximately 65'-4" from the right-of-way, where 65-feet are required. In addition, the Commercial Communication Tower is a minimum of 171-feet from the nearest residential parcels, where 130-feet is required.
- 1.7** The Commercial Communication Tower is an allowed use in C-2 zoning district subject to granting of a Special Use Permit. Consistent with the Commercial Communication Tower Guidelines adopted by the City Council May 19, 1997, the location of this Commercial Communication Tower exceeds the recommended setbacks from adjacent roads and residential uses. Given the distance from commercial and residential uses, the context of the site, and the use of a stealth design, the Commercial Communication Tower is compatible with and not detrimental to surrounding properties.

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**Case No.:** BA10-028 (PLN2010-00111)

**Location:** 3105 North Maple Drive

**Subject:** Requesting a Special Use Permit to allow an auto towing and impound yard in the M-1-PAD zoning district. (PLN2010-00111)

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-028 with the following conditions:

- 1. Compliance with the narrative and plans provided, except as modified by the conditions below.*
- 2. All existing and required landscape plantings shall be maintained. Any dead or dying landscape plantings shall be replaced with like materials.*
- 3. Removal of illegal structures on the site or applicant to obtain necessary building permits.*
- 4. Dustproof of rear storage area.*
- 5. Existing wooden gate to be replaced with a solid metal gate.*
- 6. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** 6-0

**Findings:**

- 1.1** This Special Use Permit allows the placement of an impound lot on two parcels currently used for a construction yard. Use of the site as an impound lot is a change in use, necessitating a Special Use Permit. The site, with the noted approval conditions complies with current development standards.
- 1.2** The impound yard is in conformance with the General Plan designation of Business Park, result in a minimal increase in impact to surrounding properties, and is compatible with and not detrimental to surrounding properties. To ensure the impound yard is in conformance with the intent of the Zoning Ordinance; stipulations have been added to address the deficiencies.
- 1.3** The subject site falls within the Commons Industrial Park at Falcon View Unit 2 and is within an area identified for limited industrial uses.

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**Case No.:** BA10-029 (PLN2010-00113)

**Location:** 420 East Main Street

**Subject:** Requesting a Special Use Permit to allow a commercial communication tower to be placed in the TCC zoning district.

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-029 with the following conditions:

- 1. Compliance with the site plan submitted except as modified by the following conditions below.*
- 2. The commercial communication tower shall utilize a Faux Date Palm design with a minimum of 55 palm fronds, bark cladding to resemble the bark of a natural palm tree, and all antennas, radio heads, and other equipments near antennas shall be painted to match the color of the palm fronds.*
- 3. The commercial communication tower shall have a maximum height of seventy-five feet (75') at the top of the palm canopy (73'-3.5" at the top of antennas.*
- 4. The antennas shall not exceed 4'7" in length, 7" in width, and 4" in depth.*
- 5. The lease area shall screen the ground mounted equipment and the base of the tower by an 8-foot high CMU wall including 8-foot wide by 8-foot high metal access gate (no chain link gate).*
- 6. The operator of the monopalm shall respond and complete all identified maintenance and repair of the facility within 30-days of receiving written notice of the problem.*
- 7. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** 6-0

**Findings:**

- 1.1** The 75-foot high Commercial Communication Tower is located towards the rear northeast portion of the parcel behind parking lot for the Tire shop within a lease area surrounded by a 8 foot high CMU wall.
- 1.2** The property is zoned TCC, and allows Commercial Communication Towers. The approval of a Special Use Permit (SUP) is required for Commercial Communication Towers in TCC zoning district, this is for a 75' high Commercial Communication Tower.
- 1.3** Approval of the SUP required finding the Commercial Communication Tower compatible with and not detrimental to surrounding properties and is consistent with the General Plan and other recognized plans and City Council policies, including the Commercial Communication Tower Guidelines, adopted in 1997.
- 1.4** Based on the submitted plans, identified as site # X091-BB and dated April 21, 2010, the

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Commercial Communication Tower and associated ground mounted equipment are located within a designated lease area. The lease area (30'x20') is surrounded by an eight-foot tall CMU screen wall painted to be compatible with the existing walls and buildings on the site. The array on the monopole consists of three sectors, each with four antennas. The antennas each measure 4'7" L x 7" W x 4" D.

- 1.5** The applicant noted that this site is necessary to enhance its coverage so as to provide better customer service to Mesa's residents, and at the same time, prepare for the upcoming 4G Network as justification for the project.
- 1.6** The location of the Commercial Communication Tower complies with the Commercial Communications Towers Guidelines as it is approximately 335-feet from the Mesa Drive right-of-way, where 75-feet is required. In addition, the Commercial Communication Tower is a minimum of 175-feet from the nearest residential parcels, where 150-feet is required.
- 1.7** The Commercial Communication Tower is an allowed use in the TCC- zoning district subject to granting of a Special Use Permit. Consistent with the Commercial Communication Tower Guidelines adopted by the City Council May 19, 1997, the location of the Commercial Communication Tower exceeds the recommended setbacks from adjacent roads and residential uses. Given the distance from street and residential uses, the context of the site, and the use of a stealth design, the Commercial Communication Tower is compatible with and not detrimental to surrounding properties.

\* \* \* \*

**Board of Adjustment Meeting  
May 11, 2010**

**Case No.:** BA10-030 (PLN2010-00106)

**Location:** 313 South Pioneer Street

**Subject:** Requesting a Substantial Conformance Improvement Permit to allow the division of land in the R-3 zoning district.

**Decision:** Continued to the June 8, 2010 meeting.

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-030 with the following conditions:

**Vote:** 6-0

\* \* \* \*

**Board of Adjustment Meeting  
May 11, 2010**

**Case No.:** BA10-031 (PLN2010-00116)

**Location:** 0 to 300 block of West Main Street (both sides), 1 to 100 block of South Center Street (west side), 0 to 100 block of South MacDonald, 0 to 100 block of South Robson, 0 to 30 block of North MacDonald, and 0 to 30 block of North Robson

**Subject:** Requesting a Special Use Permit to allow outdoor seating areas for restaurants in the TCC zoning district.

**Decision:** Approved

**Summary:** This case was on the consent agenda and not discussed on an individual basis.

**Motion:** It was moved by Boardmember Hitchens, seconded by Boardmember Stradling to approve BA10-031 with the following conditions:

1. *Compliance with the narrative submitted, except as modified by the conditions below.*
2. *Specific outdoor seating areas require review and approval by Development Services staff for the layout of the seating areas and an Encroachment Permit.*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

**Vote:** 6-0

**Findings:**

- 1.1 This Special Use Permit grants outdoor seating areas for existing and future restaurants within the Pedestrian Overlay Area (POA). The outdoor seating areas will be reviewed by Development Services staff for compliance with codes.
- 1.2 The outdoor seating areas for restaurants within the POA in the Downtown are in conformance with the General Plan designation of Town Center which identifies locations where there are a mixture of compatible activities such as restaurants, retail, and professional office, high-density residential, and service oriented business activities into one area or neighborhood.
- 1.3 POA was approved to promote uses within the Downtown that encourage pedestrian activity where a major emphasis of Mesa's redevelopment program is to attract people generating uses that stimulate growth and provide an identity in the Town Center area. This approval will streamline the required review and approval process for businesses in the Town Center area and will encourage pedestrian activity in the POA.
- 1.3 The outdoor seating areas result in a minimal increase in impact to surrounding properties, and are compatible with and not detrimental to surrounding properties.

\* \* \* \*

**Board of Adjustment Meeting  
May 11, 2010**

**Case No.:** BA10-032 (PLN2010-00112)

**Location:** 6131 East Southern Ave

**Subject:** Requesting a modification of an existing Special Use Permit for a Comprehensive Sign Plan for a retail establishment in the C-2 zoning district.

**Decision:** Approved

**Summary:** Will Allen represented the case and explained the reason for requesting additional sign area for the WalMart rebranding project. After discussion the applicant agreed that he would be willing to reduce the request from approximately 430 sq. ft. to around 300 sq. ft. Staff explained to the Board that the previous Comprehensive Sign Plan approved for 270 sq. ft. After further discussion the Board agreed to approve the request and directed the applicant to work with staff to arrive at a reduced sign area of approximately 300 sq. ft.

**Motion:** It was moved by Boardmember Stradling, seconded by Boardmember Labadie to approve BA10-032 with the following conditions as modified by the discussion:

1. *Compliance with sign plan submitted, except as modified by the conditions listed below.*
2. *Approval of this Special Use Permit case BA10-32 does not approve the proposed repainting submittal, which will be determined by separate Administrative Design Review process.*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of sign permits.*

**Vote:** 6-0

**Findings:**

- 1.1 The original Wal-Mart footprint at this site was 118,693 square foot, and later expanded by 88,292 square foot. The aggregate floor area now stands at 206,985 square feet. The City Council approved an appeal of a Comprehensive Sign Plan (case # BA90-49) for major tenants like Wal-Mart as follows: a) front elevations- 190 square feet total sign area, maximum of three signs, b) rear elevations- 80 square feet total sign area, one sign only.
- 1.2 The modification to the Comprehensive Sign Plan allows: 1) four attached signs with an aggregate sign area of 429.66 square foot, all on front elevation along Southern Avenue; 2) changing panels/ copy area of two existing detached monument signs with new Wal-Mart brand image located one along Southern Avenue and another along Superstition Boulevard.
- 1.3 The existing CSP is approved for three types of monument signs (One-Type A for 80 square foot, four-Type B each 5.5 square foot and two- Type C each 78.75 square foot of panel area) for the entire retail center.
- 1.4 The aggregate attached sign area for the building exceeds the current CSP maximums. This increase in attached sign area was justified by the applicant as rebranding only. There is no significant physical change to the site or building structure since the adoption of the BA90-049.

**Board of Adjustment Meeting**  
**May 11, 2010**

More over the previously adopted comprehensive sign plan was for the entire Power Center. Allowing more signs in number and area than it was originally approved for by the Council amounts to granting special privileges to one anchor over others in the same Power Center.

- 1.5** The sign package, including the recommended conditions of approval are compatible with and not detrimental to surrounding development.

\* \* \* \*



**Board of Adjustment Meeting  
May 11, 2010**

A. Other Business:

1. Request for reconsideration of Case BA10-10, 119 West 3<sup>rd</sup> Place

A letter from Mr. Robert Giguere, the son of property owner Grace Giguere, was distributed to the Board. Mr. Sheffield explained that Mr. Giguere had asked the Board to reconsider the case BA10-10 at 119 West 3<sup>rd</sup> Place and is considering filing a Special Action.

Discussion ensued regarding the Special Action process. Boardmember Hitchens asked if it would be necessary to hear the entire case again, Mr. Sheffield responded yes.

Margaret Robertson, from the City Attorney's office, clarified that the Special Action would not hear new evidence.

Boardmember Labadie asked if the Court had the ability to return the case back to the Board of Adjustment. Ms. Robertson replied that they could.

After further discussion Boardmember Stradling motioned to reconsider BA10-10 and direct staff to place the item on the June 8<sup>th</sup>, 2010 agenda.

The motion failed due to the lack of a second.

Respectfully submitted,

Gordon Sheffield, AICP  
Zoning Administrator

Minutes written by Mia Lozano, Planning Assistant

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